

ASSEMBLY BILL

No. 1060

Introduced by Assembly Member Fox

February 22, 2013

An act to amend Section 711.4 of the Fish and Game Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as introduced, Fox. Environmental quality: California Environmental Quality Act: filing fees: exemptions.

Existing law requires the Department of Fish and Wildlife to impose and collect filing fees, in prescribed amounts, to defray the costs of managing and protecting fish and wildlife trust resources, including consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, developing monitoring requirements for purposes of the California Environmental Quality Act (CEQA), consulting, and other activities protecting specified trust resources. Existing law exempts certain specified projects from those filing fees that are imposed on projects subject to CEQA.

This bill would additionally exempt from the filing fees imposed on projects that are subject to CEQA a project being carried out or implemented by a branch of the United States Armed Forces.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 711.4 of the Fish and Game Code is
2 amended to read:

1 711.4. (a) The department shall impose and collect a filing fee
2 in the amount prescribed in subdivision (d) to defray the costs of
3 managing and protecting fish and wildlife trust resources,
4 including, but not limited to, consulting with other public agencies,
5 reviewing environmental documents, recommending mitigation
6 measures, developing monitoring requirements for purposes of the
7 California Environmental Quality Act (Division 13 (commencing
8 with Section 21000) of the Public Resources Code), consulting
9 pursuant to Section 21104.2 of the Public Resources Code, and
10 other activities protecting those trust resources identified in the
11 review pursuant to the California Environmental Quality Act.

12 (b) The filing fees shall be proportional to the cost incurred by
13 the department and shall be annually reviewed and adjustments
14 recommended to the Legislature in an amount necessary to pay
15 the full costs of department programs as specified. The department
16 shall annually adjust the fees pursuant to Section 713.

17 (c) (1) All project applicants and public agencies subject to the
18 California Environmental Quality Act shall pay a filing fee for
19 each proposed project, as specified in subdivision (d).

20 (2) Notwithstanding paragraph (1), a filing fee shall not be paid
21 pursuant to this section if any of the following conditions exist:

22 (A) The project has no effect on fish and wildlife.

23 (B) The project is being undertaken by the department.

24 (C) The project costs are payable by the department from any
25 of the following sources that are held by the department:

26 (i) The Public Resources Account in the Cigarette and Tobacco
27 Products Surtax Fund.

28 (ii) The California Wildlife, Coastal, and Park Land
29 Conservation Fund of 1988.

30 (iii) The Habitat Conservation Fund.

31 (iv) The Fisheries Restoration Account in the Fish and Game
32 Preservation Fund.

33 (v) The Commercial Salmon Stamp Account in the Fish and
34 Game Preservation Fund.

35 (vi) Striped bass stamp funds collected pursuant to Section 7360.

36 (vii) The California Ocean Resource Enhancement Account.

37 (D) The project is implemented by the department through a
38 contract with either a nonprofit entity or a local government
39 agency.

1 (E) *The project is being carried out or implemented by a branch*
2 *of the United States Armed Forces.*

3 (3) Filing fees shall be paid at the time and in the amount
4 specified in subdivision (d). Notwithstanding Sections 21080.5
5 and 21081 of the Public Resources Code, a project shall not be
6 operative, vested, or final, and local government permits for the
7 project shall not be valid, until the filing fees required pursuant to
8 this section are paid.

9 (d) The fees shall be in the following amounts:

10 (1) For a project that is statutorily or categorically exempt from
11 the California Environmental Quality Act, including those certified
12 regulatory programs that incorporate statutory and categorical
13 exemptions, a filing fee shall not be paid.

14 (2) For a project for which a negative declaration is prepared
15 pursuant to subdivision (c) of Section 21080 of the Public
16 Resources Code, the filing fee is one thousand eight hundred
17 dollars (\$1,800). A local agency collecting the filing fee shall remit
18 the fee to the county clerk at the time of filing a notice of
19 determination pursuant to Section 21152 of the Public Resources
20 Code. A state agency collecting the filing fee shall remit the fee
21 to the Office of Planning and Research at the time of filing a notice
22 of determination pursuant to Section 21108 of the Public Resources
23 Code.

24 (3) For a project with an environmental impact report prepared
25 pursuant to the California Environmental Quality Act, the filing
26 fee is two thousand five hundred dollars (\$2,500). A local agency
27 collecting the filing fee shall remit the fee to the county clerk at
28 the time of filing a notice of determination pursuant to Section
29 21152 of the Public Resources Code. A state agency collecting
30 the filing fee shall remit the fee to the Office of Planning and
31 Research at the time of filing a notice of determination pursuant
32 to Section 21108 of the Public Resources Code.

33 (4) For a project that is subject to a certified regulatory program
34 pursuant to Section 21080.5 of the Public Resources Code, the
35 filing fee is eight hundred fifty dollars (\$850). The filing fee shall
36 be paid to the department before the filing of the notice of
37 determination pursuant to Section 21080.5 of the Public Resources
38 Code.

1 (e) The county clerk may charge a documentary handling fee
2 of fifty dollars (\$50) per filing in addition to the filing fee specified
3 in subdivision (d).

4 (1) The county clerk of each county and the Office of Planning
5 and Research shall maintain a record, both electronic and in paper,
6 of all environmental documents received. The record shall include,
7 for each environmental document received, the name of each
8 applicant or lead agency, the document filing number, the project
9 name as approved by the lead agency, and the filing date. The
10 record shall be made available for examination or audit by
11 authorized personnel of the department during normal business
12 hours.

13 (2) The filing fee imposed and collected pursuant to subdivision
14 (d) shall be remitted monthly to the department within 30 days
15 after the end of each month. The remittance shall be accompanied
16 with the information required pursuant to paragraph (1). The
17 amount of fees due shall be reported on forms prescribed and
18 provided by the department.

19 (3) The department shall assess a penalty of 10 percent of the
20 amount of fees due for a failure to remit the amount payable when
21 due. The department may pursue collection of delinquent fees
22 through the Controller's office pursuant to Section 12419.5 of the
23 Government Code.

24 (f) Notwithstanding Section 12000, failure to pay the fee under
25 subdivision (d) is not a misdemeanor. All unpaid fees are a
26 statutory assessment subject to collection under procedures as
27 provided in the Revenue and Taxation Code.

28 (g) Only one filing fee shall be paid for each project unless the
29 project is tiered or phased, or separate environmental documents
30 are required.

31 (h) This section does not preclude or modify the duty of the
32 department to recommend, require, permit, or engage in mitigation
33 activities pursuant to the California Environmental Quality Act.

34 (i) The permit process of the California Coastal Commission,
35 as certified by the Secretary of the Resources Agency, is exempt
36 from the payment of the filing fees prescribed by paragraph (4) of
37 subdivision (d) insofar as the permits are issued under any of the
38 following regulations:

39 (1) Subchapter 4 (commencing with Section 13136) of Chapter
40 5 of Division 5.5 of Title 14 of the California Code of Regulations.

1 (2) Subchapter 1 (commencing with Section 13200), Subchapter
2 3 (commencing with Section 13213), Subchapter 3.5 (commencing
3 with Section 13214), Subchapter 4 (commencing with Section
4 13215), Subchapter 4.5 (commencing with Section 13238),
5 Subchapter 5 (commencing with Section 13240), Subchapter 6
6 (commencing with Section 13250), and Subchapter 8 (commencing
7 with Section 13255.0) of Chapter 6 of Division 5.5 of Title 14 of
8 the California Code of Regulations.

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